Office - Supreme Court, U.S.
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MAY 10 1982
ALEXANDER L. STEVAS,
CLERK

81-2411

IN THE

SUPREME COURT OF THE UNITED STATES

MAY TERM, 1982

No. _____

ALEXANDER GEE,

PETITIONER,

vs.

MILTON C. DAWSON,
ROBERT M. NUDELMAN,
RAGER, RAGER & WINSTEAD and
JOHN RAGER

RESPONDENTS

On Appeal from Supreme Court of

California

PETITION FOR APPEAL

ALEXANDER GEE
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Fontana, California 92335
Telephone: (714) 829-9774
823-2329
Pro Se

QUESTION PRESENTED

1. Did the respondents acted with conspiracy to commit bribery and obstruction of justice?

2. Did the presiding judge, Richard C. Garner, a former comrade of the respondents guise judicial interpretation render judgments in favor of the respondents constitute a denial of due process of law in violation Section 1 of Fourteenth Amendment to the Constitution of the United States? Must the Court disqualification himself from his known association with the defendants?

3. Does the court entered a a judgment deprived my children the equal protection of laws? Violated a property interest protected by Section 1 of the Fourteenth Amendment of the Constitution of the United States for gift under minor act?

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1/ The appendix section is taken from petition submitted to this Court on April 28, 1982. Copies of that petition has been sent to the respodents.

TABLE OF AUTHORITIES

CASES:

Byrd v. Brishke
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People v. Ditson
57 Cal 2d 415 9

People v. Lopez
60 Cal 2d 223 9

People v. Pike
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Rosenbery v. Fleut
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IN THE

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ALEXANDER GEE,

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MILTON C. DAWSON,
ROBERT M. NUDELMAN,
RAGER, RAGER & WINSTEAD and
JOHN RAGER

Respondents.

On Appeal from the Supreme Court of California

The petitioner, Alexander Gee, respectfully prays that a writ of certiorari issue to review the judgment of the Superior Court of California for the County of San Bernardino entered on March 25, 1981.

OPINION BELOW

The Supreme Court of the State of California denied appellant's petition for hearing on February 9, 1982 of the above entitled-action Alexander Gee vs. Milton C. Dawson et. al.. A Copy of that opinion is attached in petitioner's appendix page 4a. The judgment of the Superior Court of California for the County of San Bernardino is thereby the highest state court in which a judgment could be had in this case. This petition is filed within 90 days of the order of the court's filed of denial. United States Supreme Court Rule 33.7.

JURISDICTION STATEMENT

Jurisdiction of this Court is invoked pursuant to 28 USC 1257(3).

PERTINENT CONSTITUTIONAL AND STATUTORY PROVISION

CONSTITUTION OF THE UNITED STATES:

Artical I Section 10(1) ..... No state

shall pass any Bill or Law impairing the Obligation of Constracts.

Artical VI(2) This Constitution, and the Laws of the United States ... shall be supreme Law of the Land; ....

Amendment XIV .... nor shall any person ... be deprived life, liberty, or property without due process of law, nor deny any person within it judisdiction the equal protection of laws.

Title 42 U.S.C.A. Paragraphs:

1981 ..... all person have equal privileges and equal penalities,

1982 .... all person have equal right to hold and convey property,

1985 .... right to be free of conspiracy and the equal protection of law.

CALIFORNIA CONSTITUTION PROVISION RELATED TO RIGHT:

Section 1, all people have inalienable rights, Amongs these are ... life and liberty, accquiring, possessing, and protecting property, ...

Section 7(a) A person may not be deprived of liberty, or property without duw process of law or denied equal protection of laws.

Section 7(b) A citizen or class of citizen may not be granted privileges or immunity not granted on same terms to all citizen. Privileges or immunities granted by

Legislature may be altered or revoked.

Section 21. Property owned before marriage or accquired during marriage by gift will or inheritance is seperate property.

Section 26. The provision of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

CALIFORNIA PENAL CODE:

Section 182 Conspiracy consists of any agreement between two or more person to commit any crime .... due administration of justice .....

Section 182(3) Falsely to move or maintain any suit, action or proceeding.

Section 182(4) To cheat and to defraud any person of any property by any means which are themself criminal, or to obtain money or property by false pretense or by false promisses with fraudlent intent not to perform such promise are conspiracy.

Section 503. Embezzlement is the fraudulent appropria tion of property by a person to whom it has been intrusted.

CALIFORNIA CIVIL CODE PROCEDURE:

Section 1858. "In the construction of a statute ... the office of the judge is simply to ascertain and declare what is in terms or in substaince contained therein, not to insert what has been omitted, or omit what has been inserted, and where there are several provision or particular,

such a construction as, if possible to be adopted as will give effect to all.

Section 4425(d) Voidable marriage, the consent of either party was obtained by fraud, unless such party afterward, with full knowledge of facts constituting the fraud, freely cohabited with other as husband and wife.

Section 4531. Expressly grants jurisdiction to the Superior Court in material dispute case to inquire into parties property rights and to make appropriate judgment and order to settle these right.

Section4533 Entery of Final Judgment Notice. When six months haveexpired from the date of filing of joint petition from summary disolution, the court may ..... enter the final judgment disolution of marraige, ... The clerk shall send a notice of final judgment to each of the parties at his or her last known address.

Section 4801. Spouse Support Order and Decree of Disolution:

1. The earing capacity of each party,
2. The need of each party,
3. .....
8. The standard of living of each party.

Section 5108. All property owned by husband before marriage and accquired afterward by gift, bequest, devise, or descent, with rent, issues and profit of, is his seperate property. .....

Section 5110. Community property presumption acquistion by husband and wife except as provided in Section 5107, 5108 and 5109.

California State Bar Rules listed in California Rule of Court:

Rule 6-101(2) A member of the State Bar shall not wilfully or habitually fail use reasonable diligence and his beat judgment in exercise of his skill and in the application of his learning in effort to accomplish, with reasonable speed, the purpose of which he employed. The good faith of an attorney is a matter to be considered in determining whether acts done through ignorance or mistaking warrant imposition of discipline of failing to act competenly.

Rule 7-103 A member of the State Bar shall not communicate directly with party whom he knows to be represented by consel upon a subject of controversey without the express consent of the such counsel.

Rule 7-107(a) A member of the State Bar shall not suppress any evidence that he or his client has a legal oligation to reveal or produce.

STATEMENT OF THE CASE

The defendants, each of them, acted in bribery and conspiracy and in obstruction of justice deprived petitioner's property right secured by constitution and laws and marraige agreement that the petitioner's wife has no property right. In conspiracy, the defendants, each of them violated all

pertinent constitutional and statutory provision listed above. The conspiracy had been accomplished by premeditated deisgn of prejury testimoney and the suppress of records and documents of property right. In addition, the defendants also give aid to a former alien in the violation of the Immigration Laws of the United States.in larceny, embezzlement, and a viodable marriage, an accessary in criminal design.

The presiding judge,Richard C. Garner of the above entitled-action was an attorney practicing law in the San Bernardino aera and a confederacy with the defendants is known for their notorious act conspiracy to commit bribery and obstruction of justice. He failed and/or refused disqualification. Friends of the court are available. His motion for the counsel for defendant to demur for uncertainty is coran non judice and void. January 14, 1981 Court

Reporter's Transcript.

A malpractice suit was filed on petitioner's behave within one year and the defendants conspired not to follow through. CCPS 340.6 provides that:

> (a) An action against an attorney for wrongful act or omission, other than for actual fraud, arising in the performance of professional service shall be commence within one year after plaintiff discovers, or through the use of reasonable diligence should have discovered, ... or four years from the date of the wrongful act or omission ..... In no event shall the time for commencement of legal action exceed four years except .....
> (2) The attorney continues to represent the plaintiff .....
> (3) The attorney willfully conceals the facts constituting the wrongful act or omission when such facts are known to the attorney, ...

The judgment of the above entitled-action sustained demurrer based on one section of 340.6 violate CCPS Section 1858 for omit that has been inserted on attorney's concealment of conspiracy. In addition, no ruling was ever given to CCPS 340.6 against

petitioner's constitutional right.

Supreme Court ought not to pass on question of constitutional of statue, unless such adjudiction is unavoidable. Rosenberg v. Fleuti Cal 1963 83 S. Ct 1804 374, U.S. 449 Led 2d 1000.

WHY CERTIORARI SHOULD BE GRANTED

1. Argument:

Under California law, a conspiracy need not be pleaded in the complaint or information as basis for the reception of evidence which shows the existence of one. People v. Lopez, 60 Cal 2d 223; People v. Pike, 58 Cal. 2d 70; People v. Ditson, 57 Cal 2d 415. There are no denial of the defendants, each of them, of their charge with conspiracy to commit bribery and obstruction of justice. A failure to deny any material allegation of challenging statement admits it is truth. Keating v. Keating, 169 Cal. 754, 759, 147 p. 974,

975-976 (1915).

The Court of Appeal for the Seventh Circuit states " He is responsible if his ommission is unreasonable in the light of Circumstance. Byrd v. Brishke, (1972 CA7 Ill) 466 F2d 610.

A divorce suit on property issues are place before the court every controversy that raise by the parties, and the parties are not free of constitutional mandate to provide the opposite any records and evidence has legal obligation to reveal or produce. The judgment involves a property interest protected by Section 1 of the Fourteenth Amendment of the Constitution of the United States.

2. Summeray of Facts:

a) records and documents for property rights are available but suppress by the defendants.

b) Three (3) court records had been

destroyed for self-incrimination and evidence of conspiracy.

c) Judge Howard B. Weiner was a shopping judge and he prejuried his record.

d) The application of Final Judgment is a prejury and evidence of conspiracy,

e) Joseph Campbell's record is a prejury and evidence of conspiracy,

f) My children are entitled compensation for their sufferring, humiliation, and lose of future earing as direct result of the defendants' ommission and conpiracy that deprived their rights.

g) The Preliminary Injunction decision is a prejudgment of the defendant secretly conferred with the judge when petitioner is waiting in propria persona in the court-room. The denial of Motion to Vacat is not in the judge's calander. The court cannot ex mero motu, It is coram non judice and void. State ex rel. v. Muench, 217 M. 124

138, 117 S.W. 25, 29 (1909).

h) All material facts of deprivation are file with records and documents.

i) The striking of appellant's Opening brief is baed on Susan Jacobs' dear judge letter and not a motion, a complaint of certification service. It is a discrimination in favor of the respondents. Yick Wo v. Hopkins, 118 U.S. 356.

CONCLUSION

For the reasons stated, petitioner urges certiorari issue to review the opinion and judgments of the California courts.1/2/

Respectfully submitted:

ALEXANDER GEE
16737 Foothill Boulevard
Fontana, California 92335
Pro Se

1/ Not certified by State Attorney General under Title 28 USC 1254(1).
2/ Petitioner in the process of submitting petition of related cases to this Court.

AFFIDAVIT OF SERVICE

I, Alexander Gee, in pro per, certify that copies of the forgoing Petition for appeal to the United States Supreme Court have been service to the respondents' attorney (3 copies each) and one copy to the Attorney General of the State of California, Sacremento, California 95814.

No copy had been send to the respondent, Robert M. Nudelman who has refused service with no forward address.

This 28th day of May, 1982.

Alexander Gee

ALEXANDER GEE, In Pro Per
16737 Foothill Boulevard
Fontana, California 92335

APPENDIX

APPENDIX TABLE 1a

CLERK'S NOTIFICATION OF FILING OF NOTICE OF APPEAL 2a,3a

ORDER OF FEBRUARY 9, 1982 ..... 4a

ORDER OF NOVEMBER 20, 1981 ..... 5a

ORDER OF OCTOBER 14, 1981 ..... 6a

ARGRMENT OF JANUARY 14, 1981 .... 7a,8a

ARGUMENT OF MARCH 25, 1981 .....8a

OPINION OF MARCH 25, 1981 .....9a-12a

F I L E D
County of San Bernardino
COUNTY CLERK
MAR 29 1982

By Deputy
/s/ ROBIN L. BOATMAN

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SAN BERNARDINO

ALEXANDER GEE Plaintiff-appellant -vs- MILTON C. DAWSON, ROBERT M. NUDELMAN, RAGER, RAGER WINSTEAD AND JOHN RAGER Defendants-Respondents	No. CW 12759 CLERK'S NOTIFICATION OF FILING NOTICE OF APPEAL (Rule 1(b) Rules on Appeal)

TO: ALEXANDER GEE
16737 Foothill Blvd.
Fontana, CA. 92335

MILTON C. DAWSON
330 N. "D" St., Suite 450
San Bernardino, CA 92401

VOEGELIN & BARTON, Susan L. Jacobs
606 S. Olive St., 18th Fl.
Los Angeles, CA 90014

ROBERT M. NUDELMAN
700 S. Flower Street, Suite 2200
Los Angeles, CA. 90017

in the above-entitled action, filed with the Clerk of this court a Notice of Appeal from the denial of appellant's petition for hearing filed on February 9, 1982.

Dated 3-29-82

County Clerk

By /s/ ROBIN L. BOATMAN
Deputy Clerk

CLERK'S NOTIFICATION OF FILING NOTICE OF APPEAL (Rule 1(b), Rule on Appeal)

SUPREME COURT
F I L E D
FEB 9, 1982
LAURENCE P. GILL, Clerk
/s/ RCM
Deputy

ORDER DENYING HEARING

AFTER JUDGMENT BY THE COURT OF APPEAL

4 District, Division 2, Civil No. 25749

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN BANK

GEE

v.

DAWSON et al.

Appellant's petition for hearing DENIED

/s/ BIRD
Chief Justice

COURT OF APPEAL-FOURT DIST.
F I L E D
NOV 20, 1981
ROBERT L. FORD, Clerk
Deputy Clerk

COURT OF APPEAL-STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

ALEXANDER GEE Appellant VS. MILTON C. DAWSON, et al Respondents)	4 CIV 25749 SAN BERNARDINO COUNTY No.CW 12759

THE COURT:

Appellant's petition to refile proper brief, is DENIED.

IT IS ORDER that the above entitled appeal be, and hereby is DISMISSED.

/s/ Morris, J
Acting Presiding Justice

COURT OF APPEAL-FOURTH DIST.
F I L E D
OCT 14, 1981
ROBERT L. FORD, Clerk

Deputy Clerk

IN THE

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

STATE OF CALIFORNIA

ALEXANDER GEE
Appellant

VS.

MILTON C. DAWSON, et al
Respondent

4 CIVIL 25749

CW 12759

THE COURT:

Respondent's motion to strike appellant's opening brief for failure to comply with rules 13, 15(a) and 18 of the California Rules of Court, is GRANTED.

IT IS ORDERED that the appellant's opening brief, filed on September 29, 1981 be stricken from the record on appeal.

IT IS FURTHER ORDERED that the clerk of this court strike said brief from the record on appeal and return to appellant. Apellant is granted leave to file a proper brief within (30) days from the date of this order.

/s/ GARDNER, P. J.
Presiding Justice

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

No. CW-12759

ALEXANDER GEE

v.

MILTON C. DAWSON et al.

Argued January 14, 1981

Before: Richard C. Garner, judge

(Filed March 27, 1981)

THE COURT: Well, I saw Mr. Dawson here. There he is over there. I received his paper this morning ..... Mr. Dawson, you represent yourself, I don't see a proof .... here it is, yours is timely motion .....

MR. CRAWLEY: Let's see, your Honor, I'm John Crawley, Mr. Dawson's associate, and I had expected to be specially appear-

ing this morning is why I'm standing up here .....

THE COURT: It is stamped January 13!81, ans January 14, '81 (Dawson's motion).

THE COURT: It was filed on January 9, 1981 .....(petitioner's motion) .... In any even, it is untimely, He did not give ten days of notice, so I will completely disregard it and deny the motion to cancel, I will deny his demurred to answer, whatever that is well. ..... .

Miss Jacob, you demurrer general only, did not demur for uncertainty.....

Argued of March 25, 1981

Judgment entered on ground in favor to substained the demurrer on ground of uncertainly, for another action in federal court, and CCPS 340.6 which is unconstitutional under California Constitution.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

DEPARTMENT 3-ONT DATE MARCH 25,1981

HON: RICHARD C. GARNER, Judge TIME 8:30am

Frank Bland, Sheriff, By James Lent Deputy

LYMAN MADSEN, Acting County Clerk
By Linda L. Lewis Deputy

CASE NO. CW-12759(Parties and Counsel check if present)

Reporter Jari Oliphant, C.S.R. Pro Temp

TITLE:	COUNSEL:
ALEXANDER GEE	Alexander Gee- In Pro Per (NP)
vs.	
JOHN RAGER, et al	Susan Jacobs ✓ John Crawley ✓

HEARING ON: NATURE OF PROCEEDINGS

(1) Attorney's (Milton C. Dawson) Demurrer of Milton C. Dawson to Pltf's Second Amended Complaint (2) Defendant's (Rager, Rager &Winstead & John M. Rager) Hearing on Defendant Rager's Demurrer to Pltf's Second Amended Complaint

The Demurrer of Rager, Rager, Rager and Winstead and John M Rager is sustained without leave to amen as follows:

Count 1 - Sustained - Insufficient Facts for Cause of Action. No duty owed by attorney for adverse party to Plaintiff. Conspiracy and damages not adequately plead. Uncertain.

Count 2 - Sustained - Insufficient Facts for Cause of Action - Negligence Cause of Action not plead. No damages plead. Uncertain and unintelligible.

Count 3 - Sustained - Insufficient Facts for Cause of Action - Scienter element of fraud not plead. No damages. Uncertain.

Count 5 - Sustained - Insufficient Facts for Cause of Action. Damages not alleged. Uncertain as to which defendant did waht.

Count 6 - Sustained - Insufficient Facts for Cause of Action. No legal cause of action discernable. Damages not plead. Uncertain and unintelligible.

Count 7 - Sustained - Insufficient Fact for Cause of Action - Uncertain.

Count 9 - Sustained - Insufficient Facts for Cause of Action - Uncertain. Attemps to incorporate language for a "Reply Brief", which brief is not on file.

The Demurrer of Milton C. Dawson is sustained as to Count 4 through 8, without leave to amend as follows:

Count 4 through 8:
Sustained - Insufficient Facts for Cause of Action. All counts v. Dawson barred by statute of limitations. In Paragraph 8,

Plaintiff indicates he knew of a cause of action against Dawson for malpractice 11/28/78. Plaintiff first sues Dawson in his first amended complaint filed on December 1, 1980 CCP 340.6 provides statute of limitations against attorney as one year from plaintiff's discovery of defendant's wrongful act. All counts barred.

Further, all said counts fail to plead damages. Further, another action pending. CCP 340.10(c) No. 80-02129 MRP.

Plaintiff hasn't been given leave to amend because it appears unlikely that he could ever state a Cause of Action. He has not appeared at the last two Demurrer hearings. This is his third attempt and he appears no closer now than before.

* * * * * * *

Counsel to give formal notice upon receipt of notice of Court's ruling by the Courtroom Clerk.

* * * * * * *

I certify that copies of the above Order were mailed to counsel of record as indicated on March 26, 1981 consisting
Date
of two (2) pages.

_____
Court Clerk

CERTIFICATE OF SERVICE

OF THE

REVISED APPENDIX SECTION

I, Alexander Gee, in pro per, certify that copies of the forgoing revised Appendis Section page 1a thru 11a supplement to and supersede the appendix section of the Petition For Appeal to this Court has been service to the respondents' attorny (3 copies each) by first class amil, and one copy to the Attorney General of the State of California, Sacremento, California 95814.

None had been send to the Respondent, Robert M. Nudelman who has refused service with no forward address.

This the 29th day of June, 1982.

ALEXANDER GEE, In Pro per
16737 Foothill Boulevard
Fontana, California 92335
New Telephone:
(714) 823-2329